HONOURABLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.34721 OF 1998

Dated 26th September, 2007

Between:

1. Kuruba Narayana Swamy and others.

...Petitioner.

And:

1. The Government of Andhra Pradesh Revenue(Assn-IV) Department, Secretariat, Hyderabad represented by its Secretary and others.

..Respondents.

ORDER:

This Writ Petition is filed by the petitioners seeking to issue writ of certiorari to quash G.O. Rt. No.1664 dated 24-10-1998 confirming the order passed by the 2nd respondent dated 20-1-1992 and the order passed by the 3rd respondent dated 20-12-1990.

The facts in brief are:

An extent of 12.60 cents of land of Bandameedapalli Village, Rapthadu Mandal, Anantapur District was originally assigned in favour of K.Ramanna, Suryanarayana Reddy and V.J.Padmanabhaiah by the then Tahsildar in his proceedings dated 25-11-1974. In respect of the lands in S.No.51 adjacent to the said lands, respondents 4 to 6 were given assignment. Evidently, respondents 4 to 6 made a representation to cancel the assignments made in their favour in respect of the land in S.No.51 and in lieu thereof to assign the land in S.No.50. Acceding to the said request, respondent No.3 after issuing notices to the original assignees cancelled the assignments granted in their favour in respect of the land in S.No.50 by order dated 20-12-1990 on the ground that the original assignees were not residing in the village and directed that the land may be assigned to the eligible landless poor persons as per the

rules by giving preference to respondents 4 to 6 as their assignment in respect of S.No.51 was cancelled on the ground that the land is unfit for cultivation.

Assailing the order of Respondent No.3 dated 20-12-1990, the petitioners filed an appeal before the Commissioner, Land Revenue, Respondent No.2 herein. The said appeal was dismissed by order dated 20-1-1992 with a finding that the petitioners own an extent of Ac.5.37 cents of land having inherited from their ancestors.

The petitioners who filed the Revision before Respondent No.1 were unsuccessful with its dismissal vide order in G.O..No. 617 dated 24.6.1992. However, respondent No.1 gave a finding that since respondents 4 to 6 were already assigned land in S.No.51, they are not entitled to apply for assignment again. Respondent No.1 also directed that the lands in survey No.50 may be assigned in favour of persons belonging to the category of landless poor and backward classes. The said order of Respondent No.1 was questioned by respondents 5 and 6 in W.P.No.7847 of 1992 before this Court. By an order dated 19-9-1996, the said writ petition was allowed and the matter was remanded to Respondent No.1 for disposal of the matter afresh after giving due opportunity to both parties. On remand, Respondent No.1 by his orders dated 24-10-1998 confirmed the order of Respondent No.2. This order is under challenge in this writ petition.

Heard Sri O.Manoher Reddy, learned counsel for the petitioners, learned Assistant Government Pleader for respondents 1 and 2 and Smt.Hima Bindu representing Sri P.Veera Reddy, learned counsel for respondents 4 to 6.

Learned counsel for the petitioners made strenuous efforts to convince me to accept his contention that Respondents 1 and 2 committed serious errors in not considering the fact that respondents 4 to 6 were already assigned lands and that they have sufficient properties which disentitles them to be considered for grant of assignment in respect of the lands situated in S.No.50. He, therefore, contends that

both the orders are liable to be set aside and the matter be remanded back for fresh consideration.

Learned Assistant Government Pleader submits that since the petitioners failed to establish that they are landless poor persons and that they are eligible for grant of assignment, they have no locus to maintain this petition.

I have carefully considered the respective contentions of both the parties.

A reading of the order dated 20-1-1992 passed by Respondent No.3 shows that the petitioners owned ancestral properties and that each of them gets Ac.5.37 cents of land towards their share and that therefore, they are not eligible for fresh assignment. Respondent No.3 while answering the issue whether the petitioners are entitled to assignment as landless poor persons, held in the negative. The learned counsel for the petitioners has not disputed that under Cl. No.15 of the Board Standing Orders, it is only the landless poor persons who are eligible for assignment of the Government lands. In the affidavit filed in support of the writ petition, the petitioners have not come out with the details as to the total extent of the land they are holding. Unless the petitioners pleaded and established that the lands they hold are less than the extent of lands which qualify them for being placed them in the category of land less poor, they cannot make raise legitimate plea for grant of assignment.

In my considered view unless the petitioners succeeded in establishing that they are landless poor persons and they are eligible for assignment of Government land, they have no locus to question the status of respondents 4 to 6 as to whether they are landless poor persons or not. At any rate, as of now assignment has not been granted in favour of respondents 4 to 6. Merely because an observation was made by respondent No.3 that respondents 4 to 6 may be given preference since they were landless poor persons and their assignment in respect of S.No.51 was cancelled, the same cannot be treated as assignment having already been granted in their favour.

Having regard to the declared policy of the Government that it is only the landless poor persons who are eligible for assignment of Government Lands, the petitioners who failed to establish that they are landless poor persons are not entitled to any relief in this writ petition.

For the aforesaid reasons, the writ petition is dismissed.

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Justice C.V.NAGARJUNA REDDY

Dated 26th September, 2007.

Dvs

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